



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Frank D. Quian  
Executive Secretary  
Texas State Parks Board  
Austin, Texas

Dear Sir:

Opinion No. 0-5434

Re: Whether the Texas State Parks Board, or any other agency, has the authority to lease for oil and gas any portion of a State park. And related questions.

In your letter of November 1, 1943, you request our opinion as follows:

"We respectfully request an opinion from you, as to whether or not the Texas State Parks Board can lease any portion of Tyler State Park or any other State Park for oil and gas prospecting and/or development.

"If the Texas State Parks Board does not have this power, who has the authority to lease State Park lands under the jurisdiction of the Texas State Parks Board for oil and gas prospecting and/or development, or how can said authority be secured?"

We have been unable to find any legislative act authorizing the Texas State Parks Board to lease any State Park for oil and gas. It is a well settled rule that public

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officers and administrative and governmental boards possess only such powers as are expressly conferred upon them by law or are necessarily implied from the powers so conferred. 34 Tex. Jur. 440.

The Texas State Parks Board is an agency of the State and is authorized to solicit donation to the State of tracts of land to be used by the State for the purpose of public parks and/or recreation areas. Article 6068 V.A.C.S. Nothing in the Act creating such Board expressly authorizes it to execute oil and gas leases, and such power can not be implied from its powers expressly granted to "solicit donation to the State of tracts of land . . . to be used by the State for the purpose of public parks and/or recreation areas . . . ." We answer your first question, no.

We have been able to find only two Acts of the Legislature authorizing any agency of the State to execute oil and gas leases upon State Park lands. First, House Bill No. 711, Ch. 198, p. 430, Acts R. S. of the 41st Legislature, 1929, (Art. 5421b V. A. C. S.) authorizes the Commissioner of the General Land Office to lease all public lands lying beneath or adjacent to the waters of Caddo Lake for mineral purposes. Caddo Lake is a State Park under your jurisdiction.

Second, Senate Bill No. 94, Ch. 32, p. 55, Acts of the 41st Legislature, Fourth Called Session, 1930 (Article 3183a V. A. C. S.) created a board and authorized it to lease lands of the State which were owned or held as State Eleemosynary and State Memorial Park lands. The Texas State Parks Board does not have jurisdiction over Memorial Parks. ✓

In answer to your second question, in the absence of any express legislative authority, except with reference to Caddo Lake State Park, we do not believe any State agency has authority to lease any other State Park under your jurisdiction for oil and gas purposes, and that it will take an act of the Legislature to confer such authority.

Trusting that the above fully answers your questions, we are

Yours very truly

APPROVED: J. L. 1943

ATTORNEY GENERAL OF TEXAS

*James Sullivan*

BY *Wm. B. Durand*